

Putah Creek Resort

PUTAH CREEK

2/13/59 7/20/65

THIS AGREEMENT made this 14th day of January, 1962, by and between COUNTY OF NAPA, a political subdivision of the State of California, hereinafter called "County", and Lake Berryessa Enterprise Incorporated hereinafter called "Concessioner", .

W I T N E S S E T H:

That WHEREAS, the parties hereto made and entered into an agreement in writing dated February 13th wherein County granted to Concessioner the right to conduct for profit a resort and recreational area within Concession Area "K_____", as shown on the public use plan for Monticello Reservoir, which said concession agreement was based upon that certain Management Agreement between the United States, Department of the Interior, Bureau of Reclamation, and County of Napa dated July 31, 1958, and which said agreement dated July 31, 1958, is incorporated in said Concession Agreement by reference thereto; and

WHEREAS, County and United States, Department of Interior, Bureau of Reclamation, have negotiated and agreement bearing date January 17th, 1962 modifying and superceding said agreement dated July 31, 1958, a copy of which is attached hereto; and

WHEREAS, the parties hereto recognize that it. is to the advantage and best interests of each of the parties hereto that said agreement dated January 17th, 1962, be executed by County,

NOW, THEREFORE, for and in consideration of the premises, it is mutually agreed:

1. That County shall execute said agreement dated January 17th, 1962 and Concessioner consents thereto.

2. That upon the effective date of said agreement dated January 17th, 1952, the agreement of July 31, 1958, shall be deemed cancelled and superceded by the agreement dated January 17th, 1962

That Concessioner shall be bound by the terms of said agreement dated January 17th, 1962 in the place and stead of the agreement of July 31, 1958, and the agreement dated January 17th, 1962 shall be incorporated in

the. said Concession Agreement of Concessioner.

IN WITNESS THEREOF, the parties hereto have hereunto set their hands
the day and year first above written.

COUNTY OF NAPA, a political subdivision
of the State of California

By _____
Chairman of its Board of Supervisors

ATTEST:

County Clerk of the county of Napa and
ex-officio Clerk of its Board Of
Supervisors

County

LAKE BERRYESSA ENTERPRISES, INC.
Concessioner

And

Its Secretary

THIS AGREEMENT, made and entered into this 13th day of February, 1959, by and between COUNTY OF NAPA, a political subdivision of the State of California, hereinafter called "County", and Lake Berryessa Enterprise, Incorporated, hereinafter called "Concessioner,"

W I T N E S S E T H

THAT WHEREAS, on July 31, 1958 an agreement was made and entered into between UNITED STATES OF AMERICA and COUNTY OF NAPA entitled "Management Agreement with Napa County for Lake Berryessa (Monticello Reservoir) Area", whereby UNITED STATES of AMERICA transferred to County the administration of the federally owned or controlled lands of the reservoir area of Monticello Reservoir in Napa County, which said agreement is attached hereto, marked "Exhibit A", and made a part hereof by reference thereto; and,

WHEREAS, United States and the County have not provided facilities and services for the public visiting the area and desire the Concessioner to establish and operate the same at reasonable rates within Area "K" as shown upon the Public Use Plan for said area (which said Area "K" is more particularly described as follows), to wit:

Beginning at the east quarter (E 1/4) corner of section 16, thence Township 9 North, Range 4 West, Mount Diablo Meridian; running thence from said point of beginning North 00 degrees 21 minutes East along the westerly boundary of the Rancho Las Putah 1650 feet more or less to the centerline of Putah Creek; thence easterly along the centerline of Putah Creek to its confluence with the centerline of Pope Creek; thence westerly along the centerline Of said Pope Creek to the center line of the County Road known as the Knoxville Road; thence Northerly along the centerline of said road to the centerline of the relocated County Road town as the Pope Canyon Road; thence westerly along the centerline of said Pope Canyon Road to the Bureau of Reclamation right-of-way line; thence northerly along said right-of-way line 250 feet more or less to the Easterly boundary of said section 16; thence along said Easterly boundary North 00 degrees 21 minutes East 1700 feet more or less to the point of beginning.

EXCLUDING THEREFROM the above mentioned County Road.

WHEREAS, the establishment and maintenance of such facilities and services involve a substantial investment of capital and the assumption of the risk of operating loss, and it is therefore proper that the Concessioner be given assurance of security of said investment and of a reasonable opportunity to make a fair profit;

NOW, THEREFORE, the said parties, in consideration of the mutual promises herein expressed, covenant and agree to and with each other as follows:

1. Provided for in the Management Agreement with Napa County for Lake Berryessa (Monticello Reservoir area) the County may issue and administer licenses, permits, and contracts to persons or associations making available services and facilities for the use of the public and for the purpose of regulating the privileges to be exercised in the area. All licenses, permits and contracts affecting the lands within the primary jurisdiction of the United States, as defined in Article I, shall be submitted to the Bureau of Reclamation before issuance and all instruments used for such purposes throughout the area shall be subject to applicable terms of this agreement and shall contain certain language recognizing the purposes of the Solano Project and effecting releases and indemnification to and for the United States, its successors and assigns, and its officers, agents, and employees engaged in the construction and operation and maintenance of project works. The terms of such licenses, permits and contracts shall contain the following provisions:

(a) In the event of the termination of the Management Agreement between the United States and the County, the United States shall be deemed to stand in the stead of the County as grantor for the remainder of the term of this agreement: Provided, however, in the event of such termination, the United States, at any time within ninety (90) days thereafter, may terminate this agreement by giving to the Concessioner, thirty (30) days written notice thereof and in such event the Concessioner shall have the privilege of selling or removing, for a period of ninety (90) days after termination of this agreement, or such longer period as may be determined by the Bureau of Reclamation to be reasonable, improvements which have been constructed on the premises at the sole cost or expense of the Concessioner; otherwise, after the expiration of such

period of time, the title to such improvements shall vest in the United States."

(b) "The Concessioner recognizes that Monticello Reservoir is a feature of the Solano Project, constructed for the primary purposes of irrigation and domestic, industrial and municipal water supply in Solano County. The fulfillment of these purposes will require that the level of the reservoir be fluctuated to meet use demand, and the United States reserves the right to vary the water level to the extent deemed necessary or desirable for the purposes of project operations. Over the years the water surface will fluctuate between a minimum elevation of about two hundred fifty-three (253) feet and a maximum of about four hundred fifty-five (455) feet. The Concessioner shall not do or omit to do, or knowingly suffer, or permit to be done by others, anything by which act or omission, any persons may be endangered or injured by the use of the reservoir area.

The Concessioner shall save the United States and the County harmless from any claim on account of any personal injury or property damage by reason of anything done, or knowingly suffered or omitted to be done by the Concessioner in his exercise of the privileges granted by this contract.

2. Terms of Contract. This contract shall be for and during the term of twenty (20) years from February 17, 1959) except as it may be terminated as herein provided;

3. Accommodations, facilities and services authorized. The Concessioner agrees to develop the said Area K in accordance with the design and area use shown upon the Public Use Plan, which said Public Use Plan is an exhibit to "Exhibit A" attached hereto, and on file in the office of the County Clerk of the County of Napa, .and Concessioner agrees to install in accordance therewith and substantially or in general conformity, with the plan and design attached hereto marked "Exhibit to Exhibit A".

The Concessioner agrees to construct within said Area K substantially in accordance with Public Use Plan the following improvements:

Calendar year 1959:

- (a) Entrance and gateway office as shown upon Exhibit "B";
- (b) Access road and roads within the area will meet the requirements outlined upon Exhibit "C"; or mutually agreed upon revisions thereof.
- (c) Ten (10) launching ramps, each ramp to be fifteen (15) feet in width. Ramps to be of sufficient structural design for the loading conditions applicable; of a type suitable for the usage intended and the physical conditions of the location; all installations subject to

the approval of the Park Director;

- (h) One hundred-fifty (150) picnic units of the design shown upon Exhibit "B";
- (e) Four (4) acres of graded parking area to meet the requirements as outlined upon Exhibit "C"; or mutually agreed upon revisions thereof.
- (f) One swimming area having a frontage of at least one hundred-fifty (150) feet with sand bottom and beach, as shown upon Exhibit "B";
- (g) One store building as shown upon Exhibit "B", final plans of which shall be approved by the Park Director.
- (h) A Minimum of thirty percent (30%) of other Public Use Day Area facilities as shown upon Exhibit "B" including necessary, sanitary, water and circulation facilities and services;
- (i) Twenty (20) boat berths of a design shown upon Exhibit "B"

Calendar year 1962 (2nd stage)

- (a) Complete development of Day Use Area;
- (b) Thirty (30) mobile home unit sites.

Calendar year 1964 (3rd stage)

Complete development according to General Site Development Plan - Area K - Lake Berryessa Recreation Area dated October 13, 1958 except that Restaurant & Motel Area may be used for "DayUse" or for future expansion or for Restaurant & Motel if economically justified and if future public demand warrants such use.

4. Plant, personnel and rates.

(a) The Concessioner shall maintain and operate the said accommodations, facilities and services to such an extent and in such manner as the Park Director of County may deem satisfactory provided that the Concessioner shall not be required to make investments inconsistent with an opportunity to make a fair profit on the total of its operations hereunder. It is specifically understood and agreed that the foregoing provisions of this contract relating to the making of investments inconsistent with an opportunity to make a fair profit shall not relate to Concessioner's obligation to construct and provide improvements under Paragraph 3 of this agreement, but only to the maintenance and operation of the same after construction.

(b) All rates and prices charged to the public by the Concessioner for accommodations, services or goods sold or furnished hereunder shall be subject to regulation and approval by the Park Director, provided that such rates and prices shall not be inconsistent with an opportunity for the Concessioner to make a fair profit from the total of its operations hereunder. In determining fair profit for this purpose consideration shall be given to the rate of return required to encourage the investment of private capital and to justify the risk assumed or the hazard attached to the enterprise, the cost and current sound value of capital assets used in the operation, the rate of profit on investment and percentage profit in gross revenue considered normal in the type of business involved, the financial history and the future prospects of the enterprise, and other significant factors ordinarily taken into consideration in the determination of a fair profit or return upon investment.

Reasonableness of rates and prices will be judged primarily by comparison with those currently charged for comparable accommodations, services, or goods furnished or sold outside of the area under similar conditions, with due allowance for length of season, provision for peak loads, accessibility, availability and cost of labor and materials, type of patronage, and other conditions customarily considered in determining charges.

5. Land and Improvements. In addition to the improvements which the Concessioner agrees to construct under Paragraph 3 of this contract, the Concessioner may construct or install within the area which is the subject of this agreement such other buildings, structures and improvements consistent with the Public Use Plan, or mutually approved revisions thereof.

Specific plans and specifications of all improvements and structures to be constructed will be approved in advance of construction by the Park Director of the County, which plans and specifications may be subject to the approval of Bureau of Reclamation as the Park Director may determine.

The Park Director shall have the right at any time to enter upon any lands which are subject of this agreement for any purpose he may deem reasonably necessary for the administration of the area, but not so as to unreasonably interfere with the Concessioner's use of such lands or the improvements thereon.

Any permanent type buildings or structures shall be equipped with flush type toilets and all toilets and sanitary installations shall be constructed and maintained in accordance with requirements of the Napa

County Health Department whether such requirements are now in existence or hereafter adopted by said County Health Department.

6. Concessioner's improvements. Concessioner's improvements as used herein means buildings, structures, fixtures, equipment and other improvements affixed to or pertaining to the land assigned hereunder to use of the Concessioner in such manner as to be a part of the realty, including all such improvements as provided herein constructed upon or affixed to the lands assigned to the Concessioner and all alterations, additions or improvements thereto.

Concessioner agrees to keep and maintain all improvements upon said lands in a good state of improvement and repair during the term of this agreement and to insure such improvements against loss by fire in such amount as may be agreeable to the Park Director with loss payable to Concessioner and to County as their interest may appear at the date of a loss; County agrees to promptly restore any of Concessioner's improvements damaged or destroyed by fire during the term of this agreement to the extent that the proceeds of such fire insurance are available for such restoration.

All plans, appliances and machinery to be used in connection with the rights granted to Concessioner by this contract as well as the location and installation of such appliances and machinery shall first be approved by the Park Director in writing.

7. Accounting records and reports. The Concessioner shall maintain such records as may be prescribed by the Park Director. It shall submit annually no later than February 15 in each year of the term of this agreement a written report for the preceding calendar year of operations giving such information about its business and operations under this contract as may be prescribed by the Park Director and such other reports and data as may be required by the Park Director. The Park Director shall have the right to verify all such reports from the books, correspondence, memoranda and other records of the Concessioner and of the records pertaining thereto of any affiliated company, if any, during the period of

the contract and for such time thereafter as may be necessary to accomplish such verification.

8. Franchise fee. The Concessioner shall pay to the County quarterly in each year during the term of this contract a franchise fee for the privileges authorized herein as follows: A sum equal to three percent (3%) of the Concessioner's gross receipts as herein defined for the preceding quarter. For said purpose the quarters of the year shall begin January 1, April 1, July 1, and October 1 and said fee shall be on the 30th day of each month following the close of a quarter.

The term "gross receipts" as used herein shall be construed to mean the total amount received or realized by or accrued to the Concessioner from all sales for cash or credit of services, accommodations, materials and other merchandise made pursuant to the privileges authorized in this contract, including gross receipts of subconcessioners and commissions earned on contracts or agreement with other persons or companies operating in this area, but excluding intra-company earnings on account of charges to other departments of the operation (such as laundry, charges to employees for meals, transportation, etc.), cash discounts on purchases, cash discounts on sales, returned sales and allowances, interest on money loaned or in bank accounts, income from subsidiary companies outside of the area, sales and excise taxes, gasoline taxes, fishing licenses, postage stamps and items for which the Concessioner is accountable in full.

9. Termination of contract by County. In case of any substantial default or continued unsatisfactory performance by the Concessioner under this contract, the County may terminate this contract by the following procedure:

(a) The County shall give to the Concessioner written notice specifying the particulars of the alleged default or unsatisfactory performance.

(b) No less than thirty (30) days after receipt by the Concessioner of such notice the County shall grant to the Concessioner an

opportunity to be heard upon the charges:

(c) Following such opportunity to be heard the County shall have power to determine by action of its Board of Supervisors whether there has been such a default or unsatisfactory performance;

(d) If the County shall determine that there has been such a default or unsatisfactory performance it shall give to the Concessioner written notice of such decision specifying the particulars thereof;

(e) If the Concessioner fails or refuses to remedy such default or unsatisfactory performance within such period of time as may be fixed by the County, then the County may determine this contract terminated upon such date or such contingency as it may deem proper to protect the public interest and thereupon all right of the Concessioner under this contract to use or occupy the area which is the subject of this agreement shall forthwith terminate and title to all improvements in said area installed by the Concessioner shall vest in the County without right on Concessioner's part to remove any of the same or to recover the cost or value thereof.

10. Assignment or Mortgage. No transfer or assignment by the Concessioner of this contract or of any part thereof or interest therein directly or indirectly, voluntary or involuntary, shall be made unless such transfer or assignment is first approved in writing by the County.

11. Insurance The Concessioner shall carry such insurance against loss by fire, public liability or other hazards as may be required by the Park Director and shall hold harmless the United States and County for all loss occasioned by operations of the Concessioner, its agents or employees.

12. Concessioner's employees. The Concessioner shall employ at least one (1) employee whose primary duty shall be the enforcement of law and order in the concession area and who shall be approved as to qualifications by the Sheriff of the County. The Concessioner shall not employ or retain in its service or permit to remain upon any of the premises covered by this agreement, any person declared by the Park

Director to be unfit for such employment or otherwise objectionable. The Concessioner shall require its employees to observe impartiality as to rates and services and in all circumstances to exercise courtesy and consideration in their relations with the public.

In connection with the performance of work under this agreement, the Concessioner agrees not to discriminate against any employee or applicant for employment because of race, religion, color or national origin. The aforesaid provision shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Concessioner agrees to post hereafter in conspicuous places, available for employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause. The Concessioner further agrees to insert the foregoing provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

13. General provisions. The Concessioner shall maintain the area which is the subject of this agreement in a clean, orderly and sanitary condition and strictly obey all laws, rules and regulations pertaining to health and public safety promulgated by any governmental agency having jurisdiction over the area.

Concessioner shall maintain in boating and swimming areas within the area covered by this agreement such buoys, markers and safety devices as may be required by law or by regulation of the Park Director.

Concessioner shall participate in the Napa County annual registration and licensing of boats. The Concessioner to receive five percent (5%) of the registration fee.

Time for the doing of and performing of any act required by the provisions of this contract to be performed by Concessioner may be extended by the County at any time at its option.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the day and year first above written.

COUNTY OF NAPA, a political subdivision of
the State of California,

By _____
CHAIRMAN of its Board of Supervisors

ATTEST:

COUNTY CLERK of the County of Napa, and
ex-officio Clerk of its Board of
Supervisors

COUNTY

LAKE BERRYESSA ENTERPRISE, INCORPORATED, a
California Corporation

By _____
Its

And _____
Its

THIS AGREEMENT, made and entered into the 14th day of May, 1962 by
by and between COUNTY OF NAPA, a political subdivision of the State of
California, hereinafter called "County" and Lake Berryessa Enterprise
Incorporated, hereinafter called "Concessioner.

W I T N E S S E T H:

THAT WHEREAS, heretofore and on January 13, 1959, COUNTY OF NAPA, a
political subdivision of the State of California, and LAKE BERRYESSA
ENTERPRISE, INCORPORATED, doing business as PUTAH CREEK RESORT, made and
entered into an agreement relating to the operation by "Concessioner" of Area
"K" as shown upon Public Use Plan for Lake Berryessa Area pursuant to that
certain agreement between United States of America and County of Napa entitled
"Management Agreement with Napa County for Lake Berryessa (Monticello
Reservoir) Area", dated July 31, 1958; and

WHEREAS, the United States of America and County of Napa have, by mutual
agreement, modified said agreement dated July 31, 1958, by a written agreement
dated January 17, 1962, a copy of which is attached hereto marked Exhibit "A"
and the terms of which all of the parties hereto acknowledge they have read and
which is made a part hereof by reference thereto; and

WHEREAS, the parties hereto desire, by mutual agreement, to modify said
agreement of February 13, 1959, in the light of the modification of said
agreement made by United States of America and County of Napa dated July 13,
1958;

NOW, THEREFORE, for and in consideration of the mutual agreements of the
parties, and further in consideration of the covenants of concessioner, herein
contained, it is agreed:

1. General: That said agreement dated February 13, 1959 shall remain
in full force and effect except in such particulars as the same is modified by
this agreement and by the agreement between the United States of America and
the County of Napa dated January 17, 1962, (Exhibit "A").

2. Term of Contract: The term of this agreement shall be for and
during the term of 30 years from February 13, 1959; concessioner shall have

options to extend the term of this agreement upon the same terms and conditions as are contained in mid agreement of February 13, 1959 as modified by this agreement for an additional 10 years from and after February 13, 1989, and an additional term of nine years, six months from and after February 13, 1999. Each of said options shall be exercised by Concessioner in the following manner, and no other: One year prior to the expiration of the term of said agreement, or of any extension thereof, Concessioner shall notify the Board of Supervisors of the County of Napa of its intention to exercise said option or options and shall within ten days after tender by the County of Napa of an agreement for said extension, sign and-deliver the sane to the County of Napa. Said extension shall be effective whether or not there is such tender by the County of Napa. The exercise of said options shall be of no force or effect in the event that Concessioner is in default in the performance of any covenant or any agreement then existing between the County of Napa and Concessioner.

3. Additional Improvements: County of Napa acknowledges that a part of the consideration for the extension of this agreement by County consists of the fact that Concessioner has heretofore and during the period of negotiation of this agreement completed all improvements agreed to be constructed by it pursuant to said agreement of February 13, 1959, and has further constructed additional and substantial improvements in the concession area in addition to those required to be constructed by said agreement of February 13, 1959.

The Concessioner agrees to construct within said Area "K" substantially in accordance with Public Use Plan the following additional improvements:

Calendar year 1962:

One-hundred (100) permanent campsites.

Thirty six (36) unit trailer park.

Utility buildings as required.

Calendar year 1963:

Twenty (20) tent-type sleeping cabins.

4. Penalty for Late Payment of Franchise Fee: In the event that Concessioner fails to pay the franchise fee provided for by the agreement of February 13, 1959, or any revision thereof, the Concessioner shall pay to County of Napa in addition to said franchise fee, a sum equal to ten percent (10%) of the quarterly franchise fee then due, together with interest at the

rate of one-half (1/2) of one percent per month or fraction thereof, from the due date of said franchise until paid. The provisions of this paragraph shall not be construed to modify the right of County of Napa to terminate this agreement and Concessioner's rights hereunder for breach of the covenant to pay a franchise fee or for any other default on Concessioner's part.

5. Termination Prior to Expiration of Term: Concessioner shall be entitled to one (1) year after the service of written notice of default in connection with any of the covenants herein contained or contained in the agreement hearing date of the 13th of February, 1959, within which to remedy any such default and the performance of any of such covenants save and except any covenant relating to the payment of any franchise fee on the part of the concessioner to be paid.

IN WITNESS WHERE OF, the parties hereto have hereunto set their hands the day and year first hereinabove written.

COUNTY OF NAPA, a political subdivision of
the State of California

By _____
Chairman of the Board of Supervisors of the
County of Napa, State of California

County Clerk of the County of Napa and Ex-
officio Clerk of said Board of Supervisors

LAKE BERRYESSA ENTERPRISE, INC.,
A California Corporation

By _____

By _____

A G R E E M E N T

THIS AGREEMENT, made as of the _____ DAY OF _____ 1965,
by and between COUNTY OF NAPA, a political subdivision of the State of
California ("County"), LAKE BERRYESSA ENTERPRISES, a California corporation
("Concessioner") and UNITED CALIFORNIA BANK ("Bank"),

W I T N E S S E T H:

WHEREAS on February 13, 1959, County and Concessioner entered into an
agreement relating to the operation by Concessioner of Area K as shown on the
public use plan for Lake Berryessa area, which agreement was modified by
agreement dated June 12, 1962;

WHEREAS Concessioner wishes, from time to time hereafter, to borrow from
Bank on the security of an assignment of the agreement of February 13, 1959, as
so modified;

WHEREAS Bank is willing to consider such loans provided said agreement,
as so modified, is further modified as hereinafter provided; and

WHEREAS County desires that Bank make such loans to Concessioner and is
willing to further modify said agreement:

NOW, THEREFORE, the parties hereto agree as follows:

1. County and Concessioner warrant to and agree with Bank that:
 - (a) the attached are true and complete copies of the agreement between County and Concessioner dated February 13, 1959 and the modification dated June 12, 1962, and of the agreement between the United States of America and County dated January 17, 1962;
 - (b) all of said agreements are in full force and effect and no defaults exist thereunder as of the date hereof;

- (c) no other agreements, arrangements or undertakings exist between Concessioner, County and the United States of America relating to said area K, and no such agreements, arrangements or undertakings or amendments or modifications of existing agreements will be made or entered into without Bank's prior written consent;
- (d) there are no other concessions, licenses, permits, subconcessions, rights of possession or other interests in area K except as shown in the attached agreements and none shall be granted or created hereafter without Bank's prior written consent (provided, that County warrants only that it has no knowledge of any other concessions, licenses, etc., and agrees only that it will not itself grant or create any such concessions, licenses, etc.);
- (e) said agreements between County and Concessioner are modified by this agreement to the extent set forth herein.

2. Concessioner hereby grants, assigns, transfers and sets over to Bank all of Concessioner's right, title and interest in and to said agreement of February 13, 1959, modified by agreement of June 12, 1962, and as further modified, is hereafter referred to as the "Agreement" as security for the payment of all indebtedness of Concessioner to Bank now or hereafter existing from time to time. Concessioner accords to Bank all the rights, privileges and powers contained in the form of general pledge agreement attached hereto insofar as the same may be applicable. It is expressly understood and agreed that Bank is not and shall not be personally bound to perform any of the obligations of Concessioner under the Agreement, and County shall look solely to Concessioner or subsequent assignees of the Bank for the performance of the agreement; provided, of course, that nothing in this paragraph shall restrict or limit the County's rights to terminate the Agreement in accordance with its terms in the event of default thereunder.

3. County hereby expressly consents to the foregoing assignment and consents to any further assignment by the Bank; provided, that any assignee of the Bank shall be subject to the provisions of paragraph 10 of the agreement of February 13, 1959, and provided further that in no event shall any such assignee of the Bank or subsequent assignees thereof be liable under the

Agreement, except for obligations accrued during such assignee's period of ownership of the agreement.

4. County shall give Bank written notice by certified mail addressed to United California Bank, Attention of W. V. Taylor of any default by Concessioner under the Agreement and shall not cancel or terminate the Agreement if within 30 days after the receipt by Bank of such notice of default or 30 days after the expiration of the time within which Concessioner may cure the default, whichever is the later, Bank shall cure the default, or if the default is of such a nature as to require possession or additional time to cure, shall diligently pursue the obtaining of possession and the curing of the default.

5. County acknowledges that the "extent and manner" of the present maintenance and operation by Concessioner of the accommodations, facilities and services subject to the Agreement are such as to comply with paragraph 4 (a) of the agreement of February 13, 1959, and agrees that if such maintenance and operations are continued in the same extent and manner hereafter, no default will be alleged under said paragraph 4(a) of the agreement or under the "continued unsatisfactory-performance" provision of paragraph 9 of the agreement of February 13, 1959.

6. In the event of termination of the Agreement for any reason, County agrees that if within 60 days of such termination, Bank cures all monetary defaults, County shall enter into a new concession agreement with Bank (or any person designated by Bank reasonably satisfactory to County) on all the same terms and conditions as the existing Agreement.

7. Title to all improvements (as defined in paragraph 6 of the agreement of February 13, 1959) upon the concession area is and shall be and remain vested in Concessioner as personal property, with full rights of destruction, removal and replacement, subject only to the provisions of paragraph 9(e) of the agreement of February 13, 1959, and to any security interest of the Bank therein created hereby or by mortgage or deed of trust. In

the event of default by Concessioner, County agrees that if the Bank cures all monetary defaults, Bank shall be entitled to remove from the premises all improvements in which the Bank has a security interest notwithstanding the provisions of said paragraph 9(e) of the agreement of February 13, 1959, and to any security interest of the Bank therein created hereby or by mortgage or deed of trust. In the event of default by Concessioner, County agrees that if the Bank cures all monetary defaults, Bank shall be entitled to remove from the premises all improvements in which the Bank has a security interest notwithstanding the provisions of said paragraph 9(e).

8. Notwithstanding the provisions of paragraph 6 of the agreement of February 13, 1959, County consents to Concessioner obtaining fire and other casualty insurance with a standard mortgagee clause naming the Bank as loss payee, and Concessioner shall have the right (hereby assigned to Bank) to adjust losses and receive proceeds of the insurance.

9. No modification, amendment or termination of the Agreement shall be effective without the prior written consent of the Bank.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the date above written.

COUNTY OF NAPA, a political subdivision of
the State of California

By _____

ATTEST:

COUNTY CLERK of the County of Napa, and ex-
officio Clerk of its Board of Supervisors

LAKE BERRYESSA ENTERPRISES, INC.

By _____

UNITED CALIFORNIA BANK

By _____

CONSENT TO ASSIGNMENT

COUNTY OF NAPA, a political subdivision of the State of California, being a party to the Agreement referred to in the foregoing Assignment, consents to said Assignment and agrees that, in the event of any default by BERRYESSA under said Agreement, it will give written notice thereof to BANK and will not cancel or terminate said Agreement if, within thirty (33) days after the receipt by BANK of such notice, BANK shall (1) cure the default, or (2) in the event that the default is of such a nature as to require possession or additional time to cure, diligently pursue the obtaining of possession or the curing of the default.

IN WITNESS WHEREOF, COUNTY OF NAPA, by its officers thereunto authorized, pursuant to a resolution of its Board of Supervisors, has executed its Consent this _____ day of July, 1965.

COUNTY OF NAPA, a political subdivision of
the State of California

By _____
Chairman of its Board of Supervisors

ATTEST:

County Clerk of the County of Napa and ex-
officio Clerk of the Board of Supervisors